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May 14, 2021

NOP Proposed Rule: Origin of Livestock (Dairy)

Comment deadline is July 12, 2021

Dear PCO Certified Operators, Members, and Inspectors,

The U.S. Department of Agriculture (USDA) Agricultural Marketing Service (AMS) has once again reopened the comment period for the Origin of Livestock proposed rule originally published on April 28, 2015. This rule would amend the National Organic Program regulations regarding the origin of livestock that produce milk for an organic operation (e.g. heifers/cows, goats, sheep). A brief summary of the requested comments are included in this letter. Full text of the proposed rule can be found at <https://tinyurl.com/vmj6s77e>, or contact the PCO office for a hard copy. The NOP will accept written comments on this proposed rule until July 12, 2021. See below for instructions to submit comments.

The NOP has reopened the comment period for this proposed rule to solicit comments on specific provisions and questions; most notably, AMS is soliciting comments on whether or not they should prohibit the movement of transitioned cows in organic dairy production as part of the final rule. Comments previously submitted need not be resubmitted, as they are already incorporated into the public record and will be fully considered in any future final rule.

Requested Comments

Origin of livestock in organic regulations refers to the requirements for continuous organic management of animals that produce organic meat or dairy products. In the 2015 proposed rule, AMS sought comment on a proposal to amend those requirements for dairy animals. The purpose of the proposed rule is to ensure that the origin of livestock provisions for organic dairy animals are consistently applied by all certifying agents. The proposed rule would require that organic milk and milk products must be from animals that have been under continuous organic management from the last third of gestation onward, with a limited exception for newly certified organic dairy producers. Those producers have the opportunity to transition non-organic livestock that has been under continuous organic management for twelve months into organic production. Once transitioned, the proposed rule would not distinguish between transitioned livestock and those that were under continuous organic management from the last third of gestation onward.

AMS is now considering whether the movement of transitioned animals should be limited to prevent organic producers or operations from continually transitioning animals and/or continually sourcing off-farm transitioned animals. AMS is seeking comments on whether or not they should prohibit organic dairy operations from acquiring transitioned animals to expand or replace animals to produce organic milk.



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AMS is also considering whether the language originally included in the proposed rule that referred to “producer” should be amended to refer to “operator.” Some commenters indicated that use of the term “producer” may be unintentionally confusing and may lead to inconsistent interpretation among certification agencies. AMS is seeking comments on whether the the proposed rule use the term “operation” to describe the regulated entity, instead of “producer.”

Finally, AMS is requesting comments on: (1) whether or not an implementation timeframe is needed for the proposed rule, and, if yes, what that timeline should be; (2) the accuracy of the cost estimates for implementing this rule; and (3) whether the rule should include any additional exceptions to the one-time transition requirement for scenarios where the current regulations would not apply, and if so, what scenario(s) would warrant an exception.

Instructions for Submitting Comments

Comments must be received by 11:59PM ET on July 12, 2021, and must reference the docket number AMS-NOP-11-0009; NOP-21-04PR, and/or Regulatory Information Number (RIN) 0581-AD89. Submit written comments online via <https://tinyurl.com/7paserxj>, or by mail to Jennifer Tucker, Deputy Administrator, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave. SW, Room 2642-S, Ag Stop 0268, Washington, DC 20250-0268.

If you choose to comment, you should clearly indicate the topic and section number of this proposed rule to which your comment refers, state your position(s), offer any recommended language change(s), and include relevant information and data to support your position(s) (e.g., scientific, environmental, manufacturing, industry, or industry impact information, etc.)

Please contact me if you have any questions or if you need assistance submitting comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kyla Smith', written in a cursive style.

Kyla Smith

Certification Director